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**BEFORE THE FEDERAL ELECTION COMMISSION**

In the matter of

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MUR 6786

The Honorable Frank LoBiondo  
LoBiondo for Congress  
And Nancy Watkins, as Treasurer

**RESPONSE OF THE HONORABLE FRANK LOBIONDO, LOBIONDO FOR  
CONGRESS, AND NANCY WATKINS AS TREASURER, TO THE COMPLAINT**

This responds on behalf of our clients, The Honorable Frank LoBiondo, LoBiondo for Congress, and Nancy Watkins, as Treasurer (collectively "Respondents"), to the notification from the Federal Election Commission ("Commission") that a complaint was filed against them in the above-referenced matter. For the reasons set forth below, the Commission must find no reason to believe, dismiss the complaint, and close the file.

Simply put, the complaint is legally deficient because it fails to allege any violation by Respondents. The only reference to Respondents in the Complaint is located on page one and merely states that LoBiondo for Congress has transferred excess campaign funds to the National Republican Congressional Committee. These activities are permissible under the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations and cannot form the factual or legal basis for a reason to believe finding. 2 U.S.C. § 439a(a)(4); 11 C.F.R. § 113.2(c). Complainant makes no other allegation about Respondents.

Under the Act, regulations and Commission precedents, a complaint must describe an actual violation of law. The Commission must dismiss any complaint that fails to meet this basic standard and close the file. This unambiguous command is reflected in the Commission's regulations providing procedural safeguards to ensure that complaints meet minimum thresholds of

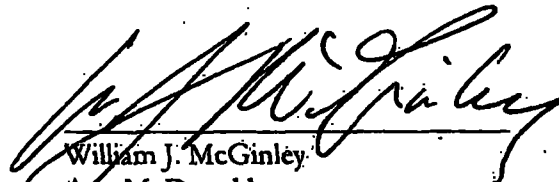
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accountability, specificity and credibility before the Commission may vote to authorize an investigation. Specifically, Commission regulations provide, *inter alia*, that the contents of a complaint must clearly recite facts describing an actual violation of a statute or regulation over which the Commission has jurisdiction. 11 C.F.R. § 111.4(d)(3). The Complaint in the instant matter fails this basic requirement since the only allegation made against Respondents is permitted by the Act and Commission regulations. Therefore, there is no factual or legal basis for finding reason to believe and the Commission must dismiss the complaint, close the file and take no further action. See Commissioners Wold, Mason, Thomas, Statement of Reasons, MUR 4850 ("A mere conclusory accusation without any supporting evidence does not shift the burden of proof to respondents. . . . The burden of proof does not shift to a respondent merely because a complaint is filed."); Commissioners Mason, Sandstrom, McDonald, Smith, Thomas, Wold, Statement of Reasons, MUR 5141 ("A complainant's unwarranted legal conclusions from asserted facts, will not be accepted as true."); Commissioners Mason, Sandstrom, Smith, Thomas, Statement of Reasons, MUR 4972 ("Mere speculation will not support an RTB finding."); Commissioners Hunter, McGahn, Petersen, Statement of Reasons, MUR 6371 ("Therefore, under the Act, before making a reason-to-believe determination, the Commission must assess both the law and the credibility of the facts alleged.").

For all of the reasons stated above, we respectfully request that the Commission dismiss the complaint, close the file, and take no further action in this matter.

Respectfully submitted,



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